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IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

DAVID ATLEE PHILLIPS :
Plaintiff :
vs. : Law No. 57691
WASHINGTON MAGAZINE, INC., et al :
Defendants :

MEMORANDUM OPINION AND ORDER

The defendants have filed a Demurrer to the plaintiff's Amended Declaration. I have read the Amended Declaration, the text of the published article referred to in the pleading and filed in these proceedings, the demurrer, the response, and the reply, together with the several memoranda of points and authorities. Additionally, I listened to oral argument and read plaintiff's supplemental statement filed thereafter.


From this review I conclude that the principles asserted in Capital-Gazette Newspapers, Inc. v. Richard L. Stack, Court of Appeals of Maryland, No. 53, September Term, 1981, filed June 4, 1982, requires that the demurrer be sustained for the principal reason asserted, that "Plaintiff fails to plead adequately actual malice on the part of the defendants."

Reviewing all of the allegations in the Declaration, the text of the published article, and its accompanying illustrations, there is no showing of defamatory material that was a calculated falsehood or some lie "knowingly and deliberately published." There is no showing that the material was the product of the defendant's imagination; contains defamatory material so inherently improbable that only a reckless person could have put it into circulation; or that the defendants had obvious reasons to distrust the accuracy of the defamatory material or the reliability of the source of it.

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With this conclusion it is unnecessary for me to address the other points raised in the demurrer. Accordingly, it is by the Circuit Court for Montgomery County, Maryland, this 6th day of July, 1982,

ORDERED that the defendants' Demurrer to the Amended Declaration be and the same is hereby SUSTAINED.


DAVID L. CAHOON, JUDGE
Circuit Court for Mont-
gomery County, Maryland